

Senate Bill No. 604

Passed the Senate August 26, 2004

Secretary of the Senate

Passed the Assembly August 23, 2004

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2004, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Sections 81008, 84101, 84103, 84108, 84203, 84204, and 84502 of, to repeal Section 84305.6 of, and to repeal and add Sections 84305.5 and 84506 of, the Government Code, relating to the Political Reform Act of 1974, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 604, Perata. Political Reform Act of 1974.

(1) Under the existing Political Reform Act of 1974, on the Saturday preceding an election held on the first Tuesday after the first Monday in June or November in even-numbered years, campaign statements are required to be open for public inspection and reproduction at the offices of specified state and local agencies.

This bill would instead require that the campaign records be open for inspection and reproduction on the Saturday preceding a statewide primary or statewide general election.

(2) Under existing law, the Political Reform Act of 1974 authorizes various methods for filing a statement of organization, amendments to a statement of organization, a statement of organization for a slate mailer organization, and late contribution reports.

This bill would add additional methods for filing, including facsimile transmission and guaranteed overnight delivery, and would delete filing by telegram.

(3) Under the Political Reform Act of 1974, a committee that makes a late independent expenditure, as defined, is required to report the expenditure, as specified, within 24 hours of the time it is made. The act also requires each candidate or committee that makes or receives a late contribution, as defined, to report the late contribution, as specified, within 24 hours of the time the late contribution is made or received.

This bill would provide that late independent expenditure reports are not required for any committee filing independent expenditure reports pursuant to a specified provision. The bill also would provide that late contribution reports are not required for contributions disclosed pursuant to specified provisions.



(4) Existing law prohibits a slate mailer organization or committee primarily formed to support or oppose one or more ballot measures from sending a slate mailer unless it contains certain information specified by existing law.

This bill would delete those provisions, but would enact similar provisions that would change the information required to be included with slate mailers and make various other technical changes to existing law. It would provide that its intent is to clarify the status of certain disclosure requirements affecting slate mail, which has been brought into question as a result of the passage of Proposition 208 by the voters at the November 5, 1996, general election and the passage of Proposition 34 by the voters at the November 7, 2000, general election, and by litigation challenging the constitutionality of these 2 propositions.

(5) Existing law requires a slate mailer organization or committee primarily formed to support or oppose one or more ballot measures to include certain information specified in existing law with a slate mailer if any recommendation in the slate mailer to support or oppose a ballot measure or to support a candidate is different from the official recommendation by the political party that the mailer appears by representation or indicia to represent.

This bill would delete this provision.

(6) The Political Reform Act of 1974 requires a disclosure statement in any advertisement for or against a ballot measure, identifying any person whose cumulative contributions to a committee are \$50,000 or more. It defines “cumulative contributions” as the cumulative contributions to a committee beginning the first day the statement of organization is filed and ending within 7 days of the time the advertisement is sent to the printer or broadcast station.

This bill would instead define “cumulative contributions” as the cumulative amount of contributions received by a committee beginning 12 months prior to the date the committee made its first expenditure to qualify, support, or oppose the measure and ending within 7 days of the time the advertisement is sent to the printer or broadcast station.

(7) Existing law requires a committee making an independent expenditure for a broadcast or mass mailing advertisement that expressly advocates the election or defeat of any candidate or any ballot measure to include on the advertisement the names of the

two persons making the largest contributions to the committee and other specified information.

This bill would delete this provision and instead require a broadcast or mass mailing advertisement supporting or opposing a candidate or ballot measure, if paid for by an independent expenditure, to include a disclosure statement that identifies the name of the committee making the independent expenditure and the names of the persons from whom the committee making the independent expenditure has received its two highest cumulative contributions of \$50,000 or more during the 12-month period prior to the expenditure, as specified.

(8) Existing law makes a violation of the act subject to administrative, civil, and criminal penalties.

This bill would impose a state-mandated local program by imposing these penalties on persons who violate the provisions of this bill.

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(10) The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes with a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

(11) Proposition 208, an initiative measure approved by the voters at the November 5, 1996, statewide general election, makes the amendment provisions of the Political Reform Act of 1974 applicable to the amendment of the initiative measure.

This bill, which would declare that it furthers the purposes of the Political Reform Act of 1974 and Proposition 208, would therefore require a $\frac{2}{3}$ vote.

(12) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 81008 of the Government Code is amended to read:



81008. (a) Every report and statement filed pursuant to this title is a public record open for public inspection and reproduction during regular business hours, commencing as soon as practicable, but in any event not later than the second business day following the day on which it was received. No conditions whatsoever shall be imposed upon persons desiring to inspect or reproduce reports and statements filed under this title, nor shall any information or identification be required from these persons. Copies shall be provided at a charge not to exceed ten cents (\$0.10) per page. In addition, the filing officer may charge a retrieval fee not to exceed five dollars (\$5) per request for copies of reports and statements which are five or more years old. A request for more than one report or statement or report and statement at the same time shall be considered a single request.

(b) Campaign statements shall be open for public inspection and reproduction from 9:00 a.m. to 5:00 p.m. on the Saturday preceding a statewide primary or statewide general election in the offices of the Secretary of State, Registrar-Recorder of Los Angeles County, Registrar of Voters of San Diego County, and Registrar of Voters of the City and County of San Francisco.

SEC. 2. Section 84101 of the Government Code is amended to read:

84101. (a) A committee that is a committee by virtue of subdivision (a) of Section 82013 shall file with the Secretary of State a statement of organization within 10 days after it has qualified as a committee. The committee shall file the original of the statement of organization with the Secretary of State and shall also file a copy of the statement of organization with the local filing officer, if any, with whom the committee is required to file the originals of its campaign reports pursuant to Section 84215. The original and copy of the statement of organization shall be filed within 10 days after the committee has qualified as a committee. The Secretary of State shall assign a number to each committee that files a statement of organization and shall notify the committee of the number. The Secretary of State shall send a copy of statements filed pursuant to this section to the county elections official of each county which he or she deems appropriate. A county elections official who receives a copy of a statement of organization from the Secretary of State pursuant to this section



shall send a copy of the statement to the clerk of each city in the county that he or she deems appropriate.

(b) In addition to filing the statement of organization as required by subdivision (a), if a committee qualifies as a committee under subdivision (a) of Section 82013 before the date of an election in connection with which the committee is required to file preelection statements, but after the closing date of the last campaign statement required to be filed before the election pursuant to Section 84200.7 or 84200.8, the committee shall file, by facsimile transmission, guaranteed overnight delivery, or personal delivery within 24 hours of qualifying as a committee, the information required to be reported in the statement of organization. The information required by this subdivision shall be filed with the filing officer with whom the committee is required to file the originals of its campaign reports pursuant to Section 84215.

(c) If an independent expenditure committee qualifies as a committee pursuant to subdivision (a) of Section 82013 during the time period described in Section 82036.5 and makes independent expenditures of one thousand dollars (\$1,000) or more to support or oppose a candidate or candidates for office, the committee shall file by facsimile transmission, online transmission, guaranteed overnight delivery, or personal delivery within 24 hours of qualifying as a committee, the information required to be reported in the statement of organization. The information required by this section shall be filed with the filing officer with whom the committee is required to file the original of its campaign reports pursuant to Section 84215, and to file at all locations required for the candidate or candidates supported or opposed by the independent expenditures. The filings required by this section are in addition to filings that may be required by Sections 84203.5 and 84204.

(d) For purposes of this section, in calculating whether one thousand dollars (\$1,000) in contributions has been received, payments for a filing fee or for a statement of qualifications to appear in a sample ballot shall not be included if these payments have been made from the candidate's personal funds.

SEC. 3. Section 84103 of the Government Code is amended to read:



84103. (a) Whenever there is a change in any of the information contained in a statement of organization, an amendment shall be filed within 10 days to reflect the change. The committee shall file the original of the amendment with the Secretary of State and shall also file a copy of the amendment with the local filing officer, if any, with whom the committee is required to file the originals of its campaign reports pursuant to Section 84215.

(b) In addition to filing an amendment to a statement of organization as required by subdivision (a), a committee as defined in subdivision (a) of Section 82013 shall, by facsimile transmission, online transmission, guaranteed overnight delivery, or personal delivery within 24 hours, notify the filing officer with whom it is required to file the originals of its campaign reports pursuant to Section 84215 when the change requiring the amendment occurs before the date of the election in connection with which the committee is required to file a preelection statement, but after the closing date of the last preelection statement required to be filed for the election pursuant to Section 84200.7 or 84200.8, if any of the following information is changed:

- (1) The name of the committee.
- (2) The name of the treasurer or other principal officers.
- (3) The name of any candidate or committee by which the committee is controlled or with which it acts jointly.

The notification shall include the changed information, the date of the change, the name of the person providing the notification, and the committee's name and identification number.

A committee may file a notification online only if the appropriate filing officer is capable of receiving the notification in that manner.

SEC. 4. Section 84108 of the Government Code is amended to read:

84108. (a) Every slate mailer organization shall comply with the requirements of Sections 84100, 84101, 84103, and 84104.

(b) The statement of organization of a slate mailer organization shall include:

- (1) The name, street address, and telephone number of the organization. In the case of an individual or business entity that qualifies as a slate mailer organization, the name of the slate mailer



organization shall include the name by which the individual or entity is identified for legal purposes. Whenever identification of a slate mailer organization is required by this title, the identification shall include the full name of the slate mailer organization as contained in its statement of organization.

(2) The full name, street address, and telephone number of the treasurer and other principal officers.

(3) The full name, street address, and telephone number of each person with final decisionmaking authority as to which candidates or measures will be supported or opposed in the organization's slate mailers.

(c) The statement of organization shall be filed with the Secretary of State within 10 days after the slate mailer organization receives or is promised five hundred dollars (\$500) or more for producing one or more slate mailers. However, if an entity qualifies as a slate mailer organization before the date of an election in which it is required to file preelection statements, but after the closing date of the last campaign statement required to be filed before the election pursuant to Section 84218, the slate mailer organization shall file with the Secretary of State, by facsimile transmission, guaranteed overnight delivery, or personal delivery within 24 hours of qualifying as a slate mailer organization, the information required to be reported in the statement of organization.

SEC. 5. Section 84203 of the Government Code is amended to read:

84203. (a) Each candidate or committee that makes or receives a late contribution, as defined in Section 82036, shall report the late contribution to each office with which the candidate or committee is required to file its next campaign statement pursuant to Section 84215. The candidate or committee that makes the late contribution shall report his or her full name and street address and the full name and street address of the person to whom the late contribution has been made, the office sought if the recipient is a candidate, or the ballot measure number or letter if the recipient is a committee primarily formed to support or oppose a ballot measure, and the date and amount of the late contribution. The recipient of the late contribution shall report his or her full name and street address, the date and amount of the late contribution, and whether the contribution was made in the form



of a loan. The recipient shall also report the full name of the contributor, his or her street address, occupation, and the name of his or her employer, or if self-employed, the name of the business.

(b) A late contribution shall be reported by facsimile transmission, guaranteed overnight delivery, or personal delivery within 24 hours of the time it is made in the case of the candidate or committee that makes the contribution and within 24 hours of the time it is received in the case of the recipient. A late contribution shall be reported on subsequent campaign statements without regard to reports filed pursuant to this section.

(c) A late contribution need not be reported nor shall it be deemed accepted if it is not cashed, negotiated, or deposited and is returned to the contributor within 24 hours of its receipt.

(d) A report filed pursuant to this section shall be in addition to any other campaign statement required to be filed by this chapter.

(e) The report required pursuant to this section is not required for contributions disclosed pursuant to subdivision (a) or (b) of Section 85309.

SEC. 6. Section 84204 of the Government Code is amended to read:

84204. (a) A committee that makes a late independent expenditure, as defined in Section 82036.5, shall report the late independent expenditure by facsimile transmission, guaranteed overnight delivery, or personal delivery within 24 hours of the time it is made. A late independent expenditure shall be reported on subsequent campaign statements without regard to reports filed pursuant to this section.

(b) A committee that makes a late independent expenditure shall report its full name and street address, as well as the name, office, and district of the candidate if the report is related to a candidate, or if the report is related to a measure, the number or letter of the measure, the jurisdiction in which the measure is to be voted upon, and the amount and the date, as well as a description of goods or services for which the late independent expenditure was made. In addition to the information required by this subdivision, a committee that makes a late independent expenditure shall include with its late independent expenditure report the information required by paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211, covering the period from the day after the closing date of the last campaign report filed to the



date of the late independent expenditure, or if the committee has not previously filed a campaign statement, covering the period from the previous January 1 to the date of the late independent expenditure. No information required by paragraphs (1) to (5), inclusive, of subdivision (f) of Section 84211, that is required to be reported with a late independent expenditure report by this subdivision, is required to be reported on more than one late independent expenditure report.

(c) A committee that makes a late independent expenditure shall file a late independent expenditure report in the places where it would be required to file campaign statements under this article as if it were formed or existing primarily to support or oppose the candidate or measure for or against which it is making the late independent expenditure.

(d) A report filed pursuant to this section shall be in addition to any other campaign statement required to be filed by this article.

(e) The report required pursuant to this section is not required for any committee filing reports pursuant to Section 85500.

SEC. 7. Section 84305.5 of the Government Code, as amended by Chapter 893 of the Statutes of 1996, is repealed.

SEC. 8. Section 84305.5 of the Government Code, as amended by Proposition 208 at the November 5, 1996, general election, is repealed.

SEC. 9. Section 84305.5 is added to the Government Code, to read:

84305.5. (a) No slate mailer organization or committee primarily formed to support or oppose one or more ballot measures shall send a slate mailer unless:

(1) The name, street address, and city of the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures are shown on the outside of each piece of slate mail and on at least one of the inserts included with each piece of slate mail in no less than 8-point roman type which shall be in a color or print which contrasts with the background so as to be easily legible. A post office box may be stated in lieu of a street address if the street address of the slate mailer organization or the committee primarily formed to support or oppose one or more ballot measure is a matter of public record with the Secretary of State's Political Reform Division.



(2) At the top or bottom of the front side or surface of at least one insert or at the top or bottom of one side or surface of a postcard or other self-mailer, there is a notice in at least 8-point roman boldface type, which shall be in a color or print which contrasts with the background so as to be easily legible, and in a printed or drawn box and set apart from any other printed matter. The notice shall consist of the following statement:

NOTICE TO VOTERS

THIS DOCUMENT WAS PREPARED BY (name of slate mailer organization or committee primarily formed to support or oppose one or more ballot measures), NOT AN OFFICIAL POLITICAL PARTY ORGANIZATION. Appearance in this mailer does not necessarily imply endorsement of others appearing in this mailer, nor does it imply endorsement of, or opposition to, any issues set forth in this mailer. Appearance is paid for and authorized by each candidate and ballot measure which is designated by an *.

(3) The name, street address, and city of the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures as required by paragraph (1) and the notice required by paragraph (2) may appear on the same side or surface of an insert.

(4) Each candidate and each ballot measure that has paid to appear in the slate mailer is designated by an *. Any candidate or ballot measure that has not paid to appear in the slate mailer is not designated by an *.

The * required by this subdivision shall be of the same type size, type style, color or contrast, and legibility as is used for the name of the candidate or the ballot measure name or number and position advocated to which the * designation applies except that in no case shall the * be required to be larger than 10-point boldface type. The designation shall immediately follow the name of the candidate, or the name or number and position advocated on the ballot measure where the designation appears in the slate of candidates and measures. If there is no slate listing, the designation shall appear at least once in at least 8-point boldface type, immediately



following the name of the candidate, or the name or number and position advocated on the ballot measure.

(5) The name of any candidate appearing in the slate mailer who is a member of a political party differing from the political party which the mailer appears by representation or indicia to represent is accompanied, immediately below the name, by the party designation of the candidate, in no less than 9-point roman type which shall be in a color or print that contrasts with the background so as to be easily legible. The designation shall not be required in the case of candidates for nonpartisan office.

(b) For purposes of the designations required by paragraph (4) of subdivision (a), the payment of any sum made reportable by subdivision (c) of Section 84219 by or at the behest of a candidate or committee, whose name or position appears in the mailer, to the slate mailer organization or committee primarily formed to support or oppose one or more ballot measures, shall constitute a payment to appear, requiring the * designation. The payment shall also be deemed to constitute authorization to appear in the mailer.

SEC. 10. Section 84305.6 of the Government Code is repealed.

SEC. 11. Section 84502 of the Government Code is amended to read:

84502. “Cumulative contributions” means the cumulative amount of contributions received by a committee beginning 12 months prior to the date the committee made its first expenditure to qualify, support, or oppose the measure and ending within seven days of the time the advertisement is sent to the printer or broadcast station.

SEC. 12. Section 84506 of the Government Code is repealed.

SEC. 13. Section 84506 is added to the Government Code, to read:

84506. (a) A broadcast or mass mailing advertisement supporting or opposing a candidate or ballot measure, that is paid for by an independent expenditure, shall include a disclosure statement that identifies both of the following:

(1) The name of the committee making the independent expenditure.

(2) The names of the persons from whom the committee making the independent expenditure has received its two highest cumulative contributions of fifty thousand dollars (\$50,000) or



more during the 12-month period prior to the expenditure. If the committee can show, on the basis that contributions are spent in the order they are received, that contributions received from the two highest contributors have been used for expenditures unrelated to the candidate or ballot measure featured in the communication, the committee shall disclose the contributors making the next largest cumulative contributions of fifty thousand dollars (\$50,000) or more.

(b) If an acronym is used to identify any committee names required by this section, the names of any sponsoring organization of the committee shall be printed on print advertisements or spoken in broadcast advertisements.

SEC. 14. With regard to Sections 7, 8, 9, and 10 of this bill, it is the intent of the Legislature to clarify the status of disclosure requirements affecting slate mail. The status of those requirements has been brought into question as a result of the passage of Proposition 208 in 1996 and Proposition 34 in 2000, and by litigation challenging the constitutionality of these two propositions. This bill may not be interpreted to have any bearing on the state of the law prior to its effective date.

SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 16. The Legislature finds and declares that the provisions of this act further the purposes of both the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code and Proposition 208 within the meaning of Section 45 of that measure.

SEC. 17. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:



In order to ensure fair disclosure of campaign contributors to campaign committees as soon as possible, it is necessary that this act take effect immediately.



Approved _____, 2004

Governor

